subject is reviewed in *State* v. *Hill,* 37 Neb. 80; see also, 2 AMER. POL. SCI. REV. 378. This doctrine has been questioned and it is expressly declared to be against the weight of authority in *State ex rel. Schulz* v. *Patton,* cited above. It is submitted that the rule established in impeachment trials should not be applied to so summary a proceeding as is provided for under the ouster laws. For prior acts impeachment may be had, but no such purpose is expressed by the legislature in modern ouster laws, i. e. to substitute ouster in place of impeachment. Removal of an officer for cause is an incidental power in a municipal corporation, *Rex* v. *Richardson,* 1 Burr. 517. Modern ouster laws provide the necessary machinery for a speedy and summary removal. With this power well defined and so readily adapted to speedy operation, the doctrine that re-election operates to condone past offenses seems to be the better one in that it leaves the choice of officers with the people and the chosen in public service until a just and immediate cause for removal is shown in a present term. The opposite view makes the court the guardian over political qualifications of officers, a matter which the voter is generally competent to decide for himself. Furthermore, removal under the ouster law does not disqualify the offender from re-election or re-appointment, (*State ex rel. Thompson* v. *Crump,* (Tenn. 1916), 183 S. W. 505; *In re Advisory Opinion to Governor,* 31 Fla. 1; *State v. Jersey City,* cited above); hence an ouster for a prior act of misconduct seems more to rob the people of their choice than to secure proper administration of a public office, especially when no misconduct can be charged in a present term.

QUIETING TITLE—CANCELLATION OF VOID INSTRUMENT.—A court in a former suit decreed that the land in question in the present suit belonged to a former grantor of this complainant. Six months later, by a void decree, this same court purported to vest title to this same land in a former grantor of defendant. Each party, with his grantors, has claimed title through recorded deeds for more than sixteen years, but the land, being waste land, has not been occupied by either within the statutory period of limitations relating to adverse possession. A bill was filed in the present suit to remove this void decree as a cloud on complainant's title. It was *held,* upon the facts given in the bill, that the void decree should be cancelled as a cloud on the title. *Stearns Coal and Lumber Co.* v. *Patton* (Tenn. 1916), 184 S. W. 855.

The answer presented the issue whether an instrument which is void on its face or which must necessarily appear void when offered by one claiming under it should be cancelled as a cloud on a title. The general rule (by the great weight of authority) is that a court of equity will not exercise its jurisdiction to remove a cloud in case of such an instrument, for the assumed reason that there is no cloud. *Taylor* v. *Fisk,* 94 Fed. 242; *Parker* v. *Bantwell & Son,* 119 Ala. 297; *Hannibal & St. J. Ry. Co.* v. *Nartoni,* 154 Mo. 142; POMEROY, EQ. JUR. § 1399. The rule adopted by the court in the principal case is that equity has the power to cancel a void instrument whether its character appears from its face or otherwise. For other cases, see *Almony* v. *Hicks,* 3 Head. 40; *Day Company* v. *State,* 68 Tex. 526; *Stevenson* v. *Ryerson,* 6 N. J. Eq. 477. This latter rule is the more reasonable rule, if

not the more logical, because from a business point of view an instrument void on its face is an injury to one's title and depreciates its market value. The question of the running of the statute of limitations was also raised and it was adjudged that it has no application to an action to remove a cloud from title where the owner is not "out of possession" by means of defendant's possession. *Penrose* v. *Doherty,* 70 Ark. 256; *Cameron* v. *Lewis,* 59 Miss. 134; *American Emigrant Co.* v. *Fuller,* 83 Iowa 599; *Combs* v. *Combs,* 30 Ky. Law Rep. 873, 99 S. W. 919. The reason for this inoperation of the statute of limitations is that the cause of action is not the creation of the cloud but its existence. *Shoener* v. *Lissaner,* 107 N. Y. 111. Hence laches will not be imputed to one from a failure to guard against the recording of an invalid deed or instrument purporting a conveyance of his real estate. *Hodges* v. *Wheeler,* 126 Ga. 848.

WATERS—LIABILITY OF WATER COMPANY FOR NEGLIGENCE IN SUPPLYING WATER FOR FIRE PROTECTION.—A water company agreed to furnish water to the inhabitants of the city of Raleigh under a contract made solely with the city. There was a clause in the contract whereby the water company, "Shall hold said city harmless from any and all damages arising from negligence or mismanagement of the said Water Company or its employees in constructing, extending or in operating said works." Damage was caused to private property by fire due to insufficient water pressure in the mains. The plaintiff insurance company paid the loss and in this action seeks subrogation to the property owner's right to sue the water company for its negligence. It was *held,* that a recovery could be had against the water company for its negligence in not keeping sufficient pressure in the water mains to protect private property from loss by fire. *Powell & Powell* v. *Wake Water Co.,* (N. C. 1916), 88 S. E. 426.

The court in the principal case, one judge dissenting, held that the ruling in *Gorrell* v. *Water Co.,* 124 N. C. 328, 46 L. R. A. 513, 70 Am. St. Rep. 598, was applicable. In affirming the individual's right to sue for the negligence of the water company the principal case is in accord with previous cases: *Fisher* v. *Greensboro Water Co.,* 128 N. C. 375, 4 MICH. L. REV. 540; *Jones* v. *Water Co.,* 135 N. C. 553, 47 S. E. 615; *Morton* v. *Water Co.,* 168 N. C. 582 ,84 S. E. 1019. See also, 13 HARV. L. REV. 226; 15 *id.* 784; 20 *id.* 242. This subject has been fully discussed pro and contra in this Review: 3 MICH. L. REV. 442, 501; 4 *id.* 540; 5 *id.* 362; 8 *id.* 485.

WILLS—GENERAL AND SPECIFIC LEGACIES.—Testatrix was the owner and in possession of 510 shares of the capital stock of the National Bank of Commerce at the time of her death. By her will she bequeathed to legatees named therein this stock as follows: "Four, I give and bequeath 136 shares of stock of the National Bank of Commerce to Martha," and other gifts in similar language. In an action by appellant as legatee of three hundred and eighteen shares of this stock for dividends paid to the respondents as executors by the Bank of Commerce, *held,* that the legatee took specific legacies of such shares and so was entitled to dividends. *In re Largue's Estate,* (Mo. 1916) 183 S. W. 608.